

1891-002 Chancery Cause: Charles D. Covey wife vs. Nimrod & Co
Lee Co.

Russell, Grabeel, Whitehead, McElroy, Yeary, Pennington, Fleenor,
Morgan 1 Plat

-Deed

CA-Contract Dispute
T-Property

To the honorable A. S. K. Morrison Judge
of the Circuit Court of Lee County Virginia.
Humbly Complaining your orator & oratrix
Charles D. Covey & Martha J. Covey his wife,
would respectfully represent and shew
unto your honor, that on the 26th day of
May 1883, Nimrod Vae, the father of your
oratrix, being seized in fee simple of a tract
of 400 acres of land, lying and being in
said County in Poor Valley, on the North
Side of Poor Valley ridge and South Side of
Cumberland Mountain, Conveyed by proper
deed to your oratrix, eighty acres, part of said
tract, to be laid off to her by the said grantor,
in the manner in said deed specified, reserving
to himself and wife, and to the survivor of
them, the use and occupation of said 80 acres
during their natural lives, all of which will
appear from a copy of said deed herewith
filed marked "A" as part hereof. And at the
time of the execution & delivery of said deed,
to your oratrix, ^{on 5th June thereafter} her said father promised, ^{agreed with} her
that he would lay off said 80 acres on the East
end of said farm, ~~and would do so at once,~~
yet, although seven years have elapsed since
the execution of said deed to your oratrix, the
said grantor has failed & refused and still dath
fail and refuse to lay off to your oratrix the said
80 acres of land, ^{at any place on said farm} as by said deed he undertook

and bound himself to do, The said tract of land is principally valuable on account of the timber & iron ore on the same, and the location of a rail road, now nearly completed through said land, gives to the timber and iron ore a high Market Value, and your orator & oratrix are advised that the grantor in said deed has no right to sell the timber, nor the iron ore on said ^{tract of} land, before laying off to your oratrix her said 80 acres, nor has he the right then to sell the same on her portions of said land, and thus damage her reversionary interest in said land.

Nevertheless the said grantor has sold the poplar trees standing on the western portion of said tract, and the same are now claimed by one A. J. Russell, who intends cutting and removing said trees in the near future, and has sold to one J. W. M. Grabeel, for \$300.00, the entire white oak & chestnut oak timber on a portion of said tract on the east end thereof, and the said Grabeel is now engaged, with a large force of hands and teams cutting and removing said oak timber and sawing the same into cross ties for the said Rail Road, and is removing said cross ties from said land on to the right-of-way of said rail road company, as fast as they are sawed, and the said grantor threatens to sell the timber and iron ore on the remaining portion and on all of said tract of land, This your complainants

allege is a great waste and an irreparable damage to the reversion and to their interest in said land. As to the said grantor & his wife, the father and mother of your oratrix, having the use and occupation of said land during their natural lives, as provided in said deed, we have no objection to that, but upon the contrary it would afford us pleasure to see them thus properly exercise that reserved right, but we humbly submit that they should not go beyond that right and destroy the value of the reversion in said real estate. The object of this bill therefore is to enjoin and inhibit the said H. J. Russell from cutting and removing the said poplar trees from said land and to enjoin and inhibit the said Grabeel from cutting any more timber on said land and from removing any more of that already cut, the said Grabeel being, as your orator & oratrix are informed, insolvent, and to enjoin and inhibit the said Vinnsed Lee from selling or otherwise disposing of the timber or iron ore on said land, until he shall have laid off to your oratrix her said 80 acres of said land and that said Vinnsed Lee be compelled to lay off to your oratrix her said 80 acres on the East end of said farm, ^{or at some other point} or that Commissioners be appointed to lay off the same; that a receiver be appointed to take charge of and sell the timber and cross ties already cut by said Grabeel.

and that an account be taken of the
ties cut and removed from said land
by said Gysaheel, and of all masts
actually done on said land.

and not removed from said land, and hold
the proceeds of said sale subject to the future
order of the Court, and that an account be taken
of the ties already cut and removed.
To this end your orator & oratrix pray, that
the said Vinred Tæ, H. J. Russell and J. W. M.
Gysaheel be made the parties defendants
to this bill and required to answer the same
an oath; that on a hearing an injunction
be granted restraining and inhibiting the
said H. J. Russell from cutting & removing
the said poplar timber from said land and
the said Gysaheel from cutting any more
of the said oak timber on said land, or rem-
oving any more of that already cut therefrom
and the said Vinred Tæ from selling any
more of the timber or the iron ore on said
land until he shall have laid, or Commission-
ers shall have laid, off to your oratrix her
said 80 acres; and that said Tæ be compelled
to lay off to your oratrix the said 80 acres on
the east end of said farm as he agreed and
undertook to do, ^{or at some other part of said tract} or that Court be appointed
to thus lay off the same; that a receiver be
appointed to take charge of and sell the
timber and cross ties already cut, but not
removed from said land, by said Gysaheel,
and hold the proceeds of said sale subject to
the future order of the Court, and for all
further and general relief, may process issue

directed &c. And as in duty bound,
your orator & oratrix will ever pray &c.
James W Orr, Jr. of

Virginia, Lee County, to wit.

This day Charles D Coney personally appeared before me, the undersigned Clerk of the Circuit Court of Lee County Virginia, and made oath that the facts stated in the foregoing bill are true so far as they depend upon his own knowledge, and so far as stated upon information derived from others he believes them to be true. Given under my hand this the 1st day of August 1898

J. A. Hyatt C

Defts Costs
 6 13.08 Paid
 S 2.10
 S 5.50
 \$20.65

Defts Costs
 6 3.03 Paid
 S 4.50
 S 15.00
 \$22.53
 20.65
 Paid \$43.18

Charles D Convey & ^{Wife}
 vs Bill in Chy.
 Nimrod Lee & als.

1890.1 Nov Ruler S. H. Conft
 " 2 " Cause set
 for hearing

Injunction granted
 pursuant to the prayer
 of the bill. Injuncting the
 defts from selling or
 removing or interfering
 with said timber trees
 on said 400 acres of land
 & said defts Russell & Langfield
 from cutting sawing
 removing or interfering
 with said timber trees
 on said 400 acres of land
 & said defts Russell & Langfield
 will not be so much as
 until the pld or some
 one for him execute bond
 with good security for
 the clk of this court
 conditions as the law
 directs in the penalty of
 \$2000.
 is the clk
 the clerk of
 the court

1890.2 Sept 24th Jha. led in order
 Served. And N. H. H. filed
 S. H. as to other depts
 1890.4 2 Octo Ruler court

To The Hon. H. K. Moirsen Judge of the Circuit Court of Lee County Virginia
Your orator Amos A. Roe, who humbly
complaining would respectfully represent that heretofore to wit on Aug
10th, 1890, Charles D. Covey and Martha
J. Covey his wife filed their bill in
this Hon. Court against him and others,
and obtained an injunction against
your orator and Co. defendants therein
among other things to injure and inhibit
your Complainant, from cutting
or removing certain timber logs and
lumber on the upper end of a certain
tract of 400 acres of land known as
your orators home place whereon he
then and now resides in this County.
The said Covey and wife laid claim
to an undivided 80 acres of said 400^a
and moreover claimed that at the 80
acres was to be laid off on the said
upper or east end of the 400 acres, where
the timber was then being cut and
carried away, in said injunction the
plff was to execute bond, and did ex-
ecute it in a penalty of \$2000.00 Con-
ditioned to pay all Costs and damages
that might be awarded against them or

sustained by any person by reason of
suing out said injunction, the said plffs
Charles D. Levey Martha J. Levey and M.D.
L. Geary as their security did execute
such bond. Said Cause was matured
your orator answered and depositions
were taken and the same was finally
submitted for decision, and on Sept
3^d 1891 the said Court rendered a decree
therein, by which said injunction was
perpetuated as to 80 acres of land in
said Cause assigned them, by your orator
but which was not assigned on the
upper end of said premises where
the trees stood and the logs and lumber
lay, and decreed to your orator his
Costs, and the Court dissolved said
injunction, "as to the residue of said
400 acre Tract without damage."

Said Cause and all the orders decrees
proofs and pleadings therein are
herewith filed as part hereof and
prayed to be considered herewith.

Your orator alleges that in said Cause
he did not file any Crop bill or
other proceeding nor did the plff
put in issue by the allegations of

his bill the question of damages, accruing to, and sustained by your Complainant by reason of said injunction and the damages resulting from being out said injunction was in no wise in issue in said Cause, but only the matters above referred to. Your orator is advised that the decree so far as it dissolved said injunction without ~~rescission~~ ^{damages} to the removal of said 400 acre tract was erroneous and not warranted by law, and was greatly to the prejudice of your orator.

At the time of the being out of said injunction your orator had contracted to H. J. Russell and J. W. M. Gray sell the timber so cut and standing on the upper end of said 400 acre tract and the removal of which was enjoined at the price of \$200.00 one hundred of which was then due. The timber was intended for rail road ties and lumber to be used on the L. & N. Railroad then in course of construction over & through said land. The injunction was not dissolved until as above stated Sept 30 1891, the rail road had then been completed, his vendors were the owners of a portable saw

mill and could not use said timber
afterwards, your orator could not
by reason of said injunction com-
ply with his contract of sale, and
so could not perform it, his vendee
moved away, the timber has be-
come rotten and useless and there is no
market for it same so that your
orator totally lost the said contract
and the money due thereon, and this
damage nor no part thereof has
ever been paid him by the said
party or their security M. D. & Geary

The object of this bill is to review
said cause, and have an enquiry of
the damages sustained by your com-
plainant ascertain and a decree ren-
dered in his favor against the obligors
of said injunction bond for the same
To this end he prays that Charles
D. Levey Martha J. Levey and M. D.
L. ~~Gray~~ Geary be made parties
defendant to this bill that said
cause be reviewed and the error above
set out corrected, that an enquiry of
the damages be made and on a
hearing a decree be rendered in
favor of your orator against the

said obligors in said injunction bond
found filed with said Cause as part
hereof in favor of your orator for
the damages sustained by said injunction
your orator would further state that
by reason of the suing out of said
injunction he has lost much time
and been compelled to pay out large
sums of money for Counsel fees
hotel bills and numerous outlays
connected with said Cause and grow-
ing out of the suing out of said
injunction all of which including
said timber amounts to about \$500
and that he is advised is properly
recoverable in and upon said in-
junction bond and that he also may
may be inquired into also. And he
prays for a review of said Cause & a cor-
rection of the same and for all other
further & general relief that Sup-
remacy &c.

A. Q. Pridemore

^{LB}
Minrod Hol

Bill of Review

Charles D. Covey et al

To The Hon. H. S. K. Morrison Judge of
the Circuit Court of Lee County Va.

The Demurer and separate answer of Nimrod Lee to a bill filed in this Hon. Court against him and others by Charles D. Covey and Martha J. Covey his wife.

Respondent says the plffs bill is not sufficient in law to compel him to further answer and of this he prays judgement of the Court &c.

But if any other or further answer be deemed necessary, answering he says it is true, that he is owner of 400 acres of land situated as described by the plffs bill and that on the 26th day of May 1883, he deeded the female plff 80 acres of said tract, to be laid off by respondent, in any part of said 400 acres so that the same was done by parallel lines square across said poor-valley. It is also true that the female plaintiff is the daughter of respondent, and that he gave her

these lands, and that fact ought to
bring a blush of shame, to the
cheeks of the Complainant, when they
recall the fact, that respondent is old
and unable to work, and that he ^{of the}
little of this world's goods, ^{possessed by him} deeded
generously with them. It is not
true however that respondent, ever
in any way agreed to lay off said
80 acres on the east end, west end or
middle, he may have signified in
conversations that he would do so, but
never in the form of Contract or
promise, it was and is the ^{of respondent} intention at
some future day to so lay off said
lands in exact conformity with said
deed, but just where he has not
to this day fully determined. He has
and now contemplates, laying off his
son David not one hundred acres on
the west end of said tract, and when
he does so it will cover every poplar
^{except possibly three}
tree he has sold, should he determine
(and he is advised he has the right to do
so) to lay the poplar lot of next, it
would be upon land on which not
a tree has been cut, ^{except the 3 poplars} and this respondent

out does not propose to lay off
the Complainant's land where he has
sold or cut timber - He denies that he
bears the relation strictly of a life
tenant, he is advised that his reser-
vation in his deed carries with it
the full use enjoyment & Control of said
land, free from the intermeddling and
Control of the Complainant, and that
is the reason why respondent, reserved
the right to hold it in an undivided
state, he has more than 200 acres of
said tract on which no timber has been
cut. Respondent has not sold nor
does he propose to sell any more
one on the plaintiff's share, he has not
sold any of his own, and if he
does he will not interfere with the
plaintiff - He gave the land to her and wants
her to have it she is his child and
he loves her, but it pains him to
see her so ungrateful, to work and over-
indulgent father, Respondent has only
sold 50 poplar trees and the oak on
about 20 acres, out of this large boundary
of wood land, and this he did out-
the pressing want for ready money
which in old age & feeble health

has been forced upon him. Respondent again reiterates that he will where he has fully consulted his feeling and the interests of his other children lay off the pliffs their lot in conformity with said deed out of land where no timber or here one has been sold. Respondent denies the pliffs right to have said land now or in advance of his own decision partitioned & that Commissioners have any right to do so or that a receiver should take charge of his land, or that any account of said timber should be taken it is his free from the claims of the pliffs and cut from his own land. And having now fully answered he prep to be dismissed with his costs.

A. L. Ordman, p. J.

Sworn to before me in due form by Vinwood Noo this 6th day of Sept. 1890

J. H. Hyatt Clerk

Vinwood Noo
advs
Chas. D. Conover et al

Filed 2nd Sept 1890
J. H. Hyatt

x and is dissolved as to the residue
of 400 acres
of land, tract without damages.

Charles D Covey & wife

vs

Nimrod Roe et al

} In Chy,

This Cause came on again
to be heard upon the papers
formally read & a report of L-M.
Carnival surveyor to which there
are no exceptions & was argued
by counsel, on consideration of
which & for reasons appearing to
the court, ^{it is ordered that} the injunction heretofore
awarded in said cause be &
the same is hereby perpetuated
without damages as to the
land layed off and assigned
Martha J Covey wife of Charles
& Covey subject to the life
estate of Nimrod Roe and
by agreement of the parties by their counsel and
it appearing from a deed
filed in this cause that
Martha J Covey & Charles D.
Covey did on the 28th day of
April 1891 sell & convey the land
assigned them by said Carnival
surveyor in this cause to said
R. Roe & Wm H C. Roe except ~~100~~
50 feet on either side of the centre
line of the Louisville & Nashville Railroad

as & for its right of way. It is
therefore ordered, adjudged & decreed
that the said Martha J. Covey wife
of Charles D. Covey, ^{half} the said 100
feet right of way & that David
R. Roe & Wm H. C. Roe take &
hold the residue of the said
80 acres assigned by & M Car
mical to Martha J. Covey & by
her & her said husband conveyed
as aforesaid to the said David
R. & Wm H. C. Roe, and the ^{said} David
R. & Wm H. C. Roe by mutual
agreement to assume all risk
on account of a claim asserted
by Tyler Coover & his wife to a
part of said 80 acres. The said
Martha J. Covey & her said husband
Charles D. Covey is hereby released
& absolved from any action or dam-
age on account of said Tyler Coover &
wife's claim. And it is further
adjudged, ordered & decreed that
Minors Roe recover from Charles
D. Covey & Martha J. Covey the costs
of this suit and the said
Charles D. Covey & Martha J. Covey

his wife pay the same to him
and no further action being
necessary the cause is stricken
from the docket.

Charles D. Currier

or } Deceitful

Minors Noel et al

Entered Chas. D. C.

308- Sept. 3-1891.

J. H. Hyatt &

Enter Ohio

H. S. K. M.

Sept 3^d 1891-

12. And the defendants H. J. Russell & J. W. Ma-
gister, being in default, or being served
with process and failing to appear, plead or
deny or answer the bill is taken for
confessed against them.

Charles D. Carey & Martha J. Carey his wife, *Plffs*
against

Kimrod Vae & others

Defts *Sherry*

This cause came on this day to be heard upon
the bill of the plaintiffs and exhibit thereunto
the demurrer & answer of the defendant
Kimrod Vae with joinder in said demurrer
and ^{general} replication to said answer, the depositions
of witnesses, and was argued by
Counsel. In consideration thereof the Court
is of opinion, that the female plaintiff is entitled
to have the eighty acres of land laid off to
her as provided in the deed by Kimrod Vae
to said plaintiff, of May 26th 1883. It is there-
fore adjudged, ordered and decreed that the
said Kimrod Vae, within sixty days from
the adjournment of this Court, lay off to the
said Martha J. Carey, eighty acres, out of the
400 acre tract ^{of land}, in the bill mentioned, and
that he lay off the same in the manner
provided in said deed of May 26th 1883,
and define the same by proper notes and
boundaries so that the same can be identified,
and should said Vae fail to thus lay off
said eighty acres, within the time aforesaid,
then C. C. Elliott, C. S. Woodward & S. B. Orr
who are hereby appointed Commissioners for
the purpose, will go upon the said tract of
400 acres of land and lay off and assign

to said Martha J. Cony eighty acres out of
said ^{400 acre} tract of land, ^{so defining the same by properly so bound} so that the same is laid off
by parallel lines running across the Poor
Valley from the South line of said 400 acre
tract on the North side of the Poor Valley ridge
to the North line of said tract on the South
side of ~~said~~ ^{Landenberg} Mountain, so that said eighty
acres shall run square across said Poor
Valley, and they will report their action
to the next term of this court, And the
Cause is continued.

Chas. D. Cony & wife
vs. L. Grease.

Wm. Wood, for itals.
vs. Ed. Cheney & B.
page 311. Dec
11. 1890.
J. S. H. H. H. H.

Dec 19 1890.

Enter this decree
H. H. H. H.
Dec 19 1890.

Mr Amos Noel.

You will please take notice
that on the 28th day of November
1891, at the dwelling house of John
Pennington in Lee County Va, we
will take the depositions of said
Pennington & others which are
intended to be read as evidence
in our behalf in a suit in Ejectment
depending in the Circuit Court of
said County in which you are
Plaintiff and we are defendants.
Nov 26th 1891.

Lyle Coomer,
Martha Coomer.
By Counsel.

I Wm Woodward do swear that on the
26th day of Nov 1891, I offered a copy
of the within notice, ^{to} Nimrod Val and
he refused to take ^{it} & said he could not
read it any way, and ^I read the notice
to him.

Wm Woodward

Su on to and subscribed before me
this 27th 1891. James Wm. Cairns
in chancery.

Lyle Cairns &
wif

Patrice

Nimrod Val

Nimrod Nae

^{vs.}
Tyler Coomer +

Martha Coomer

} Ejectment

The deposition of John Pennington
and

taken before me H. C. Forslyn a
Justice of the Peace for the County of
Lee in the State of Virginia on
the 28th day of November 1891. at
the dwelling house of John Pennington
in said County. agreeably to the annexed
Notice, to be read as evidence on
behalf of the defendants, in a suit
now pending in the Circuit Court of Lee
County, in which Nimrod Nae is
Plaintiff and Tyler Coomer and
Martha Coomer are defendants.

The said John Pennington a witness
of lawful age, produced by the defendants
having been by me first duly sworn
deposes as follows.

I am 71 years of age, have lived
where I now reside 48 years. The
farm on which Nimrod Nae lives
and owns joins my farm on
the west. Mr Nimrod Nae purchased
the farm on which he lives from
Jonathan Hartsock and Hartsock
purchased it from George R. Galy

Heartrock lived on the place several years, possibly as long as fifteen years, while Mr Hartrock owned the land and was living on it. he showed me a ^{large} Spruce Pine then dead with marks on it as a fore and aft line tree. The bark was still on the tree and the marks were very plain. This tree stood near the Harlan road on Moil path on the west side of the path leading to Harlan, on a flat above the first little spur, that the road ascends not far from where there is indications of Lion ore, I think a little below where the Lion ore shows. ~~probably~~ nearer the second ascension of the road than the top of the first. Mr Heartrock at the same time or afterwards showed me a double Poplar that forks about three feet from the ground, one fork points north and the other south, standing from the spruce pine about one fourth of a mile in an eastward direction, which he pointed out to me as line trees, his land extending

Northwood to said Spruce Pine
and Poplars, both prongs of the
double Poplar were marked on the
inside as though the line ran
between them, both these trees
stand on the south side of the
Cumberland Mountain. I am badly
crippled with rheumatism, have not
walked a step for ~~three~~^{ten} years
and it would be impossible for
me to go to Court as a witness,
or to go to the trees spoken of. I
visited Mr. Tyler Coomer before I
got so that could not walk, and
he then lived in the house that
he built on the east side of
the Harlan road, and in which
I am informed that he had
lived until recently when he
built a new house in which he
now lives.

And further this deponent soith not.
John ^{his} Pennington
mark

Virginia True County Court
do hereby certify that the
above is a true and correct
copy of the County and State
records as certified to the
County Clerk of John Pennington

was duly taken Subscribed and
brought before me at the time
and place mentioned in the
Caption of the same.

Given under my hand this 28th
day of November, 1891.

H. C. Goshyn Lk

James Mac
as deposition

James Mac
as deposition

Sept 1891

Sept 1891

Sept 1891

Sept 1891

The depositions of Charles D Boney
Martha J. Boney Mary E. McElroy J. W. M. Grabel & others
taken at the office of James W Orr.
in Jonesville Va. on the 17th day of Nov.
1890, by consent of parties, to be read as evi-
-dence on behalf of the ~~half~~ plaintiffs in
a certain suit in chancery now pending
in the Circuit Court of Lee County Va, in
which Charles D Boney & Martha J Boney
his wife are plaintiffs and Nimrod Lee &
other defendants.

The said Charles D Boney a miness of lawful
age and being duly sworn deposes & says.

Question. ^{There is a witness objected to be called} by plaintiffs Counsel. ^{the husband of the party interested} ^{Counsel on Def.}

State all about the transaction between
Nimrod Lee and your wife by which he
made her a deed or deeds for an interest
in his lands, and especially in regard to
the deed of May 26th 1883.

Answer ^{Objected to because deed is the}
best evidence of what ~~Contract~~ was
made ^{Counsel for Defs.}

Mr Nimrod Lee made a deed to Albert,
Monroe, Drucillie, and Martha and
David Lee his children, after this
deed was made there was two other
children born, William and Mary, and
after myself and his daughter Martha

were married. Mr. Nae came to
Martha, and ^{and all the other children} wanted her to make
a deed back to him for the land
he had deeded them. So that he
could make the other children
equal with those he had deeded
his land to. She complied with his
request - by his agreeing to make her
a deed to 80 acres - which he did by
his deed bearing date May 26th 1883.
We all came to Jonesville to Judge
Morgan's office, and had him to
prepare a deed. Mr. Nae wanted my
wife to take her 80 acres on the North
Side of Poor Valley ridge, and on
the South Side of the mountain
and tract including the cleared land
saying he wanted the use of the
cleared land himself. I stated that
so far as I was concerned, I was
willing for him to have the use of
the cleared land during his life
as I had as much cleared land at
home as I could use. My wife
Martha agreed to my proposition in
regard to the cleared land. Judge Morgan
then wrote the deed of May 26th 1883,

It was my understanding that the deed was written to conform to that agreement, after the deed was written, Judge Morgan read the same and I asked him if that reservation would give Mr. Nae any privilege on any but the Cleared land, and he said it would not.

Ques by Same.

State anything you may have heard the defendant has say at anytime in regard to selling the Iron Ore & timber on the 400 acre tract of land.

Objected because not germane.
~~There is~~ for Nae

Answer. Mr. Nae was talking about selling the Iron ore two or three years ago and perhaps longer ago than that. I heard him say what some parties had offered him for it. but I don't remember what he said they offered him, after he had sold the oak timber to Mr. Grabel, I went up to where Mr. Grabel was at work on the timber. I spoke to Mr. Grabel about cutting the timber and he proposed that we go and see Mr. Nae about it, we went up to Mr. Nae's gate

and Mr Grabel called Mr Nae out to the gate and told him that his wife sent him up there to have an understanding about the timber matter, and Mr Grabel told him that I was talking about stopping him from sawing, and wanted to know what Mr Nae had to say about it. Mr Nae told him to go along and saw as much as he pleased. Mr Nae said it was his land and timber, he said his deed allowed him to ^{do as he pleased with the land} ~~to~~ ^{by counsel} sell every stick of the timber and all the iron ore and intended to do it. he then told Mr Grabel to go and saw as much as he pleased of the timber. This happened a few days before I brought this suit.

Ques. by same

Did you ever hear Mr Nae say in what part of farm he intended to lay off your wife's 80 acres?

~~Answer~~

Objected to because not germane & dec.
is best evidence ~~Dismissed of Nae~~

Answer

I never heard Mr Nae say anything about that.

Question

by depts counsel,
State if ever ^{you} heard Mr Nae try to sell the iron ore on this land?

Question 1 by Depts counsel,
State if every^{you} heard Mr. Noe try to
sell the iron ore on this land?

Answer. I did not hear Mr. Noe offer
to sell the Iron ore to any one,

Question 2 by same

State ~~how~~ ^{sub of the 400 acres} many acres of land
Mr. Noe has sold timber off
of & where located?

Answer. He sold the Poplar timber off of
the west end of the farm but I
cannot say how many acres. He
sold the White oak & Chestnut oak
off of about thirty acres on the
east end of the land.

Question 3rd by same

Please state if there is not more
than 80 acres left of the 400 acres
which no timber ~~has~~ been
sold off of how much?

This is excepted to because the 80 acres
was to be laid off in a certain manner
and this question is not germane &c.

Or for Depts.

Answer. The best estimate I can give is
that there might be as much as
80 acres between the east and west
ends of the land that the timber
has not been sold off of. but this
is only an estimate and it might
fall short of the 80 acres or it

might be more.

Question 4 by same -

Who was present when Judge Morgan stated that Mr. Nae had no privileges under the deed of May 26, 1883, except as regards as to the cleared land?

Answer. I do not remember who was in the house, when Judge Morgan made that statement, I do not remember whether Mr Nae was in the house at the time I asked the question or

not.

See introduction

This Witness is objected to because not proper being the husband of the party ^{party interests} ~~plaintiff~~ & questions & answers are excepted to because not germane, because deed is best evidence & c - Prudence for Def. And further This Deposition is not.

Directed by Plffs' Counsel.

Did Mr Nae ever tell you who he intended should have the land between that on which he had sold the poplar timber & that on which he had sold the oak timber, and if so who?

Objected to because immaterial

Counsel for Def.

Answer I heard Mr Nae say on the Sunday

before Mr Grabel moved his sawmill into the Iron valley on Mr Nais land. That he intended to lay off either 100 or 120 acres to his son Willie taking in the buildings, and that portion would be included in the boundary between where the timber had been ^{sold} ~~taken~~ off. This talk took place in Mr Nais yard and my wife Martha, and Abner Mr. Elroy were present I think.

And further this deponent soith not:

Charles D Covey

Martha J. Covey another witness of lawful age being duly sworn deposes as follows.

Quer. by Plffs Carnseb.

State all about the transaction between your father and yourself in which he executed to you a deed or deeds for an interest in his lands, and especially in regard to the deed of May 26th 1888?

Objected to because the deed or deeds & especially the deed of May 26th 1888 is the best evidence as to what that contract was.

Counsel for Defs.

Sometime very shortly after the war closed. My father deeded a 400

acre tract and a 125 acre tract of his land to his children viz Albert, Monroe, Lucille, myself and David Mae, some 8 or 9 years after this deed was made my father came to me and told me that the rest of the children were willing to make him back a deed to the land and asked me to join in the deed to him, he told me if I would make the deed back to him, he would make me a deed to 80 acres. I then made the deed and he made me a deed to the 80 acres as he had agreed to do, on the day the deed was made to the 80 acres in Judge Morgan's office my father wanted to deed my land part on the ridge and part on the mountain I told him the first deed was not that way, and I did not want it that way, I wanted it to run across the valley, he then agreed to run it square across the valley as stated in the deed.

Does by same.

Did your father at anytime tell you in what part of the farm he would lay off

what part of the farm he would lay off

your 80 acres and if so what did he say about it and when and where was it?

Object is because deed is best evidence - Counsel for

Answer. Sometime last fall about one year ago. I met my father in the road near Gilbert Nae's barn, and I told him I had started up to talk with him some. we had a talk about the land and he told me he intended to or aimed to lay off my land on the upper end, which is the east end of the farm.

Does lay same.

Did your father ever say anything to you about selling the iron ore on the land and if so what did he say and when & where was it?

Answer. My father told me he had been offered Six hundred dollars for his Iron ore, and that he was ^{rather} ~~so~~ sorry he did not take the man up. This was at his own house, and I think about two years ago.

Does lay same.

Did your father ever tell you who ^{he} intended that part of his land for on which he has sold no timber and if so when & where was it and what did he say?

Answer. I have heard him say more than once, that he intended the home place, including the buildings for Willie that is this part of the land ^{including} the buildings, that part of the land would be between the two portions of land off of which he sold the timber

Ques by same.

State whether or not the timber and iron ore on the 400 acres gives to it any peculiar value?

Objected - because immaterial

Count for Deft.

Answer. I think it adds very much to the value of the land. I would much rather have the timber and the supposed iron ore, than to have the land with the timber and iron ore taken off.

Ques by same.

Where is the tract situated in reference to the L & N. Rail Road or Station thereon

Objected to because immaterial - Count for Deft.

Answer. The L. & N. R. R. runs through the farm, and I am informed that a depot or station is located about $\frac{1}{4}$ of a mile from the east end of my father's farm.

Lives by same.

At the time of the conversation at Albert's barn State anything else your father said in regard to the same matter?

Answer In addition to what I have already stated, he told me that I would get the Commissary, stables, &c on my part when it was laid off, which were then being built by the R.R. Contractors.

This question & answer is objected to because the deed is the best evidence as to the manner of laying off &c. -
Counsel for Defs -

X examination -

Question 1 by Defs Counsel.

Did you ever read this 1st deed spoken of, or how do you know its contents?

Answer I never read the first deed, and I don't know or I heard it read, but I have heard my father talk about the deed, and he said it made us equal.

Question 2nd by same -

In the conversation near Albert's barn did your father contract with you to lay off your share on the east end of the farm, and if so what

was the consideration,

Answer

He done just as I told you before, he told me he would lay off my land on the upper end, and that he wanted each one to pay his part, and I told him if he would give it up to me as he had the boys I would pay my part, for laying off the land. That is Commissioners Surveying &c

Question by same

Did he agree to this & have land layed accordingly?

Answer

There was a little difference between us, and he did not lay off the land, he wanted me to pay my equal portion of the expense and I would not agree to do it unless he would give me possession like he had the boys, and he would not do it, and the matter dropped.

Question by same

Has your father sold any Iron ore off of the 400 acres of land, or ~~has~~ ~~you~~ heard him try to sell same?

Answer

Not that I know of. neither have I heard him try to sell it, all I know is what he told me himself,

I heard him try to sell it, all I know
is what he told me himself;

Question by same

How many acres ^{of the 400} has he sold
the timber off of?

Answer, I cannot tell,

Question by same

How much land does the "house
place" cover, that how many acres?

Answer I have always understood there was
400 acres in the house place, but
he was to log off 100 acres to Willie
and to include the buildings.

And further this deponent saith not.

Martha J. Leoney

Mary E. McElroy another witness
of lawful age being duly sworn
deposes as follows.

Direct by Plff's Counsel.

State whether, or not you ever heard
your father, ^{say} ~~say~~ what part of his farm
he intended to lay off to Martha J. Leoney
for her 80 acres, and if so what did he
say and when & where was it?

Objected to because the deed is
best evidence & not primary - ^{cannot} ~~cannot~~

Answer. I have heard him say he could
lay her 80 acres off on the upper
side of the house or on the
lower side of the house or any

- where he saw fit to lay it off, &
mean by upper and lower side
of the house. East and west
of the house. & have heard
him say this several times before
this suit came up

Does by same.

Did you ever hear him say he would
lay it off on the East end adjoining
Mr Pennington?

Objection, because ~~that~~ is best evidence
Counsel for Def-

Answer. I have heard him say he could,
but never heard him say he
would so lay it off.

Does by same.

Did you ever hear him say who he
intended to have the buildings &c.

Answer I did not.

Witness claims And further This deponent soath Nat.
1 doz 50 cts.

Mary E McElroy

J. W. M. Grabel another witness
of lawful age being duly sworn
deposes as follows.

Does by Plffs Counsel.

Please state whether or not you purchased
some timber from Mr Nimrod Lee and all about
- it -

Answer.

I bought a lot of White oak and Chestnut oak timber of Mr. Noe on Poor valley ridge on the north side for which I agreed to pay the sum of Three hundred dollars. ~~I~~ In answer to a question by the defendant. I will say that I have a written Contract with Mr. Noe. This objection is objected to because the written contract is the best evidence as to what the agreement was &c - Counsel for def - I commenced to cut & saw the timber in July the latter part, and went on sometime when one day Mr. Cowley came to me in the woods and told me his wife had some interest in that timber, and talked like he did not like to have it cut. I told him the only way he could stop me was according to law. and I proposed to him that we would go to Mr. Noe and have a talk with him about it. we went and I told Mr. Noe about it and he told me to go ahead and cut it all to pieces, or according to Contract, Mr. Noe said he would

Sell The Iron ore and Timber too,
Soon after This I was stopped from
Cutting by an Injunction having
been served upon me.

Ques by same,

On about how much land did you
purchase the said oak timber and on
what portion of the farm?

Ans. I guess on about fifty acres, on
the east end of the farm.

Ques by same,

Did Mr Nae say anything to you
about being obliged to sell the timber
or not obliged to & what did he say?

Answer. Mr Nae said he was not obliged to
sell the timber when I bought it,
he said he could live without,

Ques by same.

About how much of the timber did
you cut?

Answer. I should suppose about one
half of the timber has been cut,
of the fifty acres or boundry,

Ques by same

Do you or not consider the cut-
ting and removing said timber any
waste or damage to the reversionary

interest in said land?

Objected to because not genuine ^{consent to def-}

2. Should think it would be a damage, it would in my opinion damage the land one half at least 2 would make one half difference,

And further this deponent with nat.

J. W. M. Grabel

The further taking of depositions in this case is hereby continued until tomorrow Nov 18th 1890.

This Nov 17th 1890. H. C. Jorlyn J. P.

The taking of depositions in this case is resumed pursuant to adjournment, This Nov 18th 1890.

John H. Flenor another witness of lawful age and being duly sworn deposes & says,

Qued. by Plffs' Counsel.

Please state whether or not you had a conversation with Nimrod Lee in regard to the iron ore on his lands in Poor Valley, and if so when and where was it and what did he say?

Objected to because irrelevant, impertinent &c.
Counsel for Def

Witness
claims 1 day
50 cts

Answer. I think it was in the month of May lost. I was at Mr Noe's house and in a conversation with him he told me he had a fine bank of Iron ore on his farm, and stepped into the yard and brought in a piece of ore and showed it to me, and told me some parties had made him an offer for it, and he told me how much it was - but I cannot at this time remember how much he said. but I know it was a pretty big sum. I said to him that if I was in his place I would sell while the boom was up - and he said he would when they would give him enough

X Examination

Question, by Def Counsel

Who was present when this conversation took place?

Answer. Mr Noe's wife was present, and Frank Bowman was about the house. but I don't know whether he heard the conversation or not

Ques. by same. Please state if you ever

Know of Minrod Noe trying to
sell the Iron Ore off his land in
the Poor Valley?

Answer. I never have, only what I have stated.

Question 3 by same

Did ^{you} ever hear Mr. Minrod Noe try
to sell the Iron Ore off his land
in the Poor Valley ^{to any one} & do you know
that he has ever tried to do so?

Answer. I never heard him try to sell it
to any one, all I know about it is
what I have told you, I never
heard him have a conversation
to any one else about it.

Witness And further This deponent with Nat.
Claims, 1 day 50cts

J. H. Fellers

The further taking of these depositions
is adjourned until tomorrow Nov 19th
1890. This Nov 18th 1890.

H. C. Foslyn J. P.

The taking of depositions in this case
is resumed pursuant to adjournment
this Nov 19th 1890.

John M. Whitehead another witness of law-
ful age and being duly sworn deposes &
says.

Direct by Plffs' Counsel.

Please state whether or not you had

a conversation with Mr Nimrod Nae in regard to his selling timber to Mr. Grabeel and if so, when and where was it and what did he say?

Answer. A short time after Mr Grabeel commenced to saw timber on Mr Nae's land. Mr Nae and myself were standing in front of David Nae's house in poor valley. There came up a conversation between Mr Nimrod Nae and myself about himself and Mr Grabeel and the timber. Mr Nae then said that he had sold to Mr Grabeel a boundary of timber on the ^{East} end of his ridge land. he said he had ~~sold~~ the timber for three hundred dollars - and had received one hundred dollars of the money, and as soon as the next payment was due from Mr Grabeel if he did not pay up, he should sue him. I remarked to Mr Nae that he did not need the money. and he said no, that he had placed the money he had received in the bank.

This answer is sufficient to in so far as it refers to my & the written agreement between Mr. Grabeel & Nimrod Nae.

Council for def-

Witness claims And further This deponent soith not.
1 doz 50 cts.

J. C. Whitehead

The further taking of depositions
in this case is adjourned until
tomorrow Nov 20th 1890.

This Nov. 19th 1890. W. C. Joslyn J. P.
H. J. Morgan, another witness of lawful
age being duly sworn deposes as
follows, Nov 20th 1890.

Ques by Same Plffs' Counsel.

Did you write the deed of May 26th 1883,
from Vinrod Vae to Martha J. Corey and
take his acknowledgment thereto? A copy of
which is filed as an exhibit with Plffs' bill.

Answer I did write a deed between the
parties dated May 26th 1883. and
I now hold in my hand the
original paper.

Ques by Same.

Did you or not write said deed according
to the agreement between the parties and
as they directed?

Answer. I do not remember now, anything
particular that was said between
the parties at the time said
deed was written by me. for
them. but I am satisfied in
my own mind, that I tried

to write said deed in conformity with the agreement between the parties as I understood it then.

Deed by same.

Did you or not read said deed to the parties before it was signed and acknowledged by Mr. Nae, the grantor?

Answer As an independant fact I do not remember what took place at the time said deed was written, but I do not believe that I ever wrote a deed for a party to sign and acknowledge before me, but what I read it to him carefully before presenting it to him for his signature, and hence I feel satisfied in my own mind, that I did read said deed to Mr. Nae before he signed and acknowledged it.

Deed by same.

Please look at said original deed and explain what right you intended, by the language therein contained, to reserve to the said Winrod Nae & wife in the land by said deed conveyed?

This question & ans. - Objected to in so far as it seeks to vary & contradict the act of joint & verbal testimony.

Counsel for Def -

Answer.

I cannot state what Construction may be placed upon said deed and reservation by others, in the reservation therein contained by the Grantor in favor of himself and his wife or the Survivor of Them - but my own Idea of it now is, and I think it was my idea and object at the time, to insert a reservation of an ordinary life estate in favor of himself and wife or the Survivor of Them in other words to give them the ordinary rents and profits of the land during the life of the Survivor of Them.

X Examined.

Question by Defts Counsel

Can you state that you employed such language ~~in said deed~~ ^{as to} express the exact intention of the Grantor, Nimrod Roe?

Answer I cannot.

Question by same

Are you acquainted with the said Nimrod Roe, & if so, is he not an uneducated man & might it not be possible that the said ~~Nimrod~~ Roe misunderstood

the language employed in said deed?

Answer

I am well acquainted with one Nae have known him for thirty years and I think he is an uneducated man, and for aught I know he may not have understood the language I used in writing said deed. And further this deponent soith not.

Henry J. Morgan

Virginia Lee County To-wit:

I, Henry C. Joslyn, a Justice of the Peace for said County, do hereby Certify that the foregoing depositions of Charles S. Covey, Martha J. Covey Mary E. McElroy, J. W. M. Grabel, John H. Fleener, John M. Whitehead and H. J. Morgan, was duly taken sworn to and subscribed before me at the time and place mentioned in the Caption of the same, given under my hand this 20th day of Nov 1890
H. C. Joslyn J. P.

Chas S. Covey & wife
vs. } depositions

Naimod Nae & others

Filed Nov 20 1890
J. P. Joslyn

depositions of
Chas S. Covey
Martha J. Covey
Mary E. McElroy
J. W. M. Grabel
John H. Fleener
John M. Whitehead
H. J. Morgan

J. P. Fee \$5.00

The depositions of Minrod Nae
S.W. Nae, David R. Nae - W.H.C. Nae
taken at the office of James W. Orr
in Jonesville Va on the 19th day of
Nov 1890. by Consent of parties, to be
read as evidence on behalf of the
defendants. in a Certain suit in
Chancery now pending in the Circuit
Court of Lee County, Va in which
Charles S. Covey and Martha J. Covey
his wife are plaintiffs and Minrod
Nae & others defendants.

The said Minrod Nae a witness of
lawful age & being duly sworn de-
poses & saith:

Question by Deft. Counsel.

Please state the transaction between
yourself & Martha Covey, your daughter,
by which you made a deed or deeds for
an interest in your lands & especially
in regard to the deed of May 26th 1890.

This question ^{various answers thereto} is objected to in so far
as it is intended to contradict or vary
the deed of May 26th 1890.

Orr for Plffs.

Answer. I first made a deed for all my land
to my children, and after about five
years there was two more children

born. I then mounted the land
deeded back so that I could make
all my children equal. The children
deeded the land back to me as
I had requested. Sometime after
that I deeded 80 acres of my
land to Martha J. Covey by deed
dated May 26th 1883. My understand-
-ing was that I was ^{to have} ~~that~~ the land
and it was to be mine, during my lifetime
and the lifetime of my wife

Question 2 by same

State whether or not you intend at some
future time to lay off said 80
acres in exact conformity to the
said deed of May 26th 1883:

Answer Yes sir, of course I do, when I can
consult the interest of my other
children.

Question 3 by same

Please state whether or not you have
ever agreed or contracted with your
daughter Martha to lay off said
80 acres at the east end, west
end or any particular part of
your land?

This is objected to because intended
to contradict deed, Arr for Pff.

Answer. Never in my life, since the deed was made.

Question 4 by same

Please state whether or not the deed of May 26th/1883 is the only contract you have ever made with your daughter Martha J. ~~in~~ ⁱⁿ ~~the~~ ^{the} written or verbal in regard to ~~dealing~~ ^{dealing} off said 80 acres.

Answer. That is the only one,

Question 5 by same.

Please state how much & what timber you have sold off the 400 acres of your land in the Poor Valley. How many acres & all about it.

Answer I think about thirty acres on the east end, and about twenty on the west end, and there is more than two hundred acres running through the farm, that I have not sold a tree off of.

Ques 6 by same

Please state why you sold the above mentioned timber, with the 30 acres off each end & 20 acres of west end?

Answer I was hard pressed for money, and I had two milk cows and tried to sell one of them. but could not. Then

2 Sold the timber to get money to
pay my taxes and run my family.

Question

2 by same

Please state if ~~any~~ one has tried
to buy your horse one of the 400 track
& if so have you sold ~~any~~?

Answer

As high as Three or four have come
and tried to buy it, and I told them
that I would not sell it.

Question

2 by same

State whether or not you have ever acquired
~~any~~ ^{this} intention of laying off one of your
son's share on the west end of your
farm, & if so, how much of the timber
sold off said part would it cover?

Answer.

I have told my son David that I would
lay him off his part on the west
end of the farm, and that would
cover all the timber I have sold
on the west end of the farm; he
has been living on it about four
years, and has done some building
on it. his share would be one hundred
acres.

Question

2 by same

State what kind of timber you have
sold on the west side & east side
respectively & ~~about~~ quantity?

sold on the west side & east side
respectively & without quantity?

Answer. I sold 40 or 50 ^{Poison} trees on the West
side, and on the East side I sold
about thirty acres of the oak and
Chestnut

+ Examined.

Ques. by Piffs' Counsel.

Was there any reservation in the first
deed of which you speak?

Objection to because the deed is the
best evidence - Counsel for Def.

Ans. Yes sir, ~~there~~ there was.

Ques by same.

When the deed of May 26th 1883. was made
was it not read to you by Judge Morgan
before you signed and acknowledged it?

Answer. Not that I remember of,

Ques. by same.

Now did you happen to acknowledge it
without knowing its contents?

Answer. I don't know. it might have been read
to me. I don't recollect that it was
or was not,

Ques by same

If the deed was read to you did you or
not then think it contained the contract
between you ^{and Martha J.} and expressed it correctly.
and if you had then thought differently
would you have executed it under that -
impression.

Objected to because in form of a argument -
Counsel for Def.

Answer I dont remember what I Thought it
Contained, but if it was read and
I Thought it did not contain the
Contract I would not have signed
it.

Ques by same.

Have you made a deed to your son
David for a part of your land?

Answer I have not.

Ques by same.

How does it happen that you have
designated to him a certain homaday
and have not done, so, as you say,
to Martha J. to whom you have made
a deed several years ago? ^{objected to because}
^{in form of argument}
^{Counsel for Def.}

Answer. Because I wanted to Consult my
other children and myself as to
where to lay it off.

Ques by same.

Did you consult Martha J. before you
designated David's to him?

Answer. I did not.

Ques by same

Is it not your intention not to lay off
Martha J's 80 acres until you are Compelled to?

Answer It is my intention to lay it off
after I have studied the other children's
interest sufficiently.

Does by same

Do you ever consult Martha J. in re-
gard to these matters when consulting
with your children?

Answer I never have consulted with any of
my children in regard to laying off
my land.

Does by same.

Have you ever signified in conversations
with any one where you intended to
lay off her 80 acres?

Answer Not at all, that I know of.

Does by same.

Did you reserve, in your deed of May
26th 1883, the right to consult your
other children or any one else as to
where the 80 acres should be laid off?

Objected to because deed is the best
evidence - Counsel for Def.

Answer. I never did.

And further this deponent saith not.

Nirrod ^{his} X _{mark} Nae

Albert W. Nae another witness of lawful
age being duly sworn deposes as follows.

Question by def. counsel - Please state if you

you had a conversation with Martha J. Levy, or ~~your father~~ ^{Nimrod Noe} in regard to his share, ^{in his land in the valley} & if so, what was it? Objected to so far as relates to Nimrod Noe's statement because inadmissible.

Or for Plffs.

Answer I did have a conversation with Martha J. Levy. She proposed to sell it to me and offered to take four hundred & twenty dollars for it. I told her that I did not believe I would buy it, that I had rather buy land adjoining my own, and Martha told me that she expected Father would lay hers off on the west end if I wanted it down there. I then mentioned it to Father and he said he had no objection to my buying it, but he did not know where he would lay the share off at,

Question I by came.

State whether or not you knew Nimrod Noe's financial condition shortly before he sold Grabel the timber on the East side of his land & if so, what was it & is he your father?

your father?

This question is objected to because immaterial. Orr for Plff.

Answer. Nimrod Nye is my father, If he had any money at the time I did not know it.

Question 3 by same - State whether or not you were acquainted with your father's financial condition shortly before he sold the poplar on the west end of his farm, if so, what was it? Objected to for same reason.

Orr for Plffs.

Answer. If he had any money I did not know of it. I was well acquainted with his financial condition, at the time.

Question 4 by same

State whether or not you know what timber your father has sold off of his land in the Poor Valley & if so, how much ~~has~~ left which he has not sold the timber off of?

Answer. I cannot say that I can tell all about it, but think there would be at least one hundred acres, to take a strip across the valley that he has not cut or sold any timber from.

+ Examined.

Thes by Pliffs counsel.

Please state where the timbered land on your fathers 400 acre farm is situated?

Answer. It is on The North side of the ridge and South side of the mountain, I think there is probably a little the most on the ridge,

Thes. by Same.

Did you & your brother Wm M. buy the poplar timber on North side of ridge & west end of farm, from your father? and if so why did you not at same time buy it on the east end?

Objection is because immaterial to any issue in the cause - Counsel for Defor

Answer We did buy some timber from him, we bought 2 believe fifty trees on the ridge, on the west end of the farm. We bought this timber about two years ago, and we have sold part of the trees to H. J. Russell. We would have bought ^{more} ~~the timber on the east end~~ but he would not sell it, he said he needed a little money or he would not have sold me what he did,

Thes by Same

State as near as you can the width of the strip of land on the North side of the ridge between the two pieces on which the timber has been sold?

Objected to because immaterial - Counsel for Def-
Answer. I should think it was about two hundred yards perhaps more.

Quies by same.

You speak of your father's financial condition. Now is it not a fact that he sold a quantity of oats, hay and other farm products to the Rail Road Contractors, not a great while before he sold the timber to Grabel, for which he received a considerable sum of money, or at least some 75 or \$80.00?

Objected to because immaterial, impertinent & inadmissible - Counsel for Def-
Answer. He told me he sold two small stacks of Oats and a little Hay - but I don't remember what he sold he got, for it all,

Quies by same

Have you ever heard your father say who he intended should have the strip of land between where the timber is sold and including the buildings?

Objected to because immaterial - Counsel for Def.

Answer. I never have that I know of.
Does by same

Did not your father tell you when
you and your brother bought the pop-
lar timber on west end that he would
not sell the poplar on the East end
because he intended that for Martha?

Answer. He never did.

And further this deponent swith not.

A. W. Noe

David R. Noe another witness of lawful
age being duly sworn deposes as follows,

Question by def counsel:-

Do you know your father; & state
whether or not you know his finan-
cial condition shortly before he sold
the ^{poplar} ~~fifty poplar~~ trees to Albert & Wm
M. Noe, & if so, what was it?
Objected to because immaterial.

Err for Piffs.

Answer. He is, about the time he sold the
timber he told me he owed the
boys, and he had to pay his taxes
and he could not get any money other-
ways, and he was compelled to sell
the trees on that account.

This answer is excepted to because it is

This answer is excepted to because it is

not admissible for the defendant to
to halster himself by proving his own
statements about this or any other matter.
Orr for Plffs.

Question by same.

Please state, ^{as near as you can} how much land of your
father's ~~land~~ in Poor Valley is left
which he has not sold timber off
of?

Answer.

I should think there was one
hundred acres or more, taking it
square across from south line to
the North line.

+ Examined

Ques by Plffs. counsel.

Do you know the fact, or have you
heard your father say, that he gave an
option on his iron ore?

Answer.

~~Object to because immaterial.~~ Counsel for Def.

Answer

I heard him say he sold his iron
ore, and gave the parties twenty
days to take it in, I think this
was in the year 1887.

Ques by same

State if you ~~remember~~ ^{know} how much hay,
oats &c your father sold to the Rail
Road Contractors before he sold the
timber to Grabeel and what amt.

he realized therefor?

Objects to be seen immaterial, impertinent
& inadmissible. Counsel for & of.

Answer. He sold some two or three stacks
of Oats and Hay but if he sold how
much he got for them I don't recollect the
amount. I know of his selling two
stacks of Hay and a stack and a
half of Oats, I think he said he got
ten dollars for one stack of oats.

Witness,
1 day 50 cts.

And further this Deponent saith that

David R. Noel

William H. C. Noel another witness of
lawful age being duly sworn deposes
as follows.

Question by Dep Counsel - Is Minors Noel your
father; ~~Also~~ you know what timber
he has sold off his land ^{in the Pon Valley} & please
state whether or not you know his
financial condition shortly before
selling said timber, & if so, what
was it?

Answer. He is my father, and I am acquainted
with the timber sold. I am also
acquainted with his financial condition
shortly before he sold his timber, he
was needing money at the time he
sold the timber, he was not able
to do any work of account.

Question 2 by same

How much land is left ^{of this 4000 acre tract} off of which
he has not sold timber + State
RD. ~~near as you can~~ how wide is
the strip between where he has sold
timber on the North side of Poor
ridge, or south line of said land?

Answer

I should think there was about
one-hundred and fifty acres left
between ~~the~~ where he has sold the
timber off - taking it straight across,
from the South to the North line.
I should think it was about 400
yards across where he has sold no
timber.

Question 3 by same

Please state whether or not you ever
heard any one ever try to buy ~~the~~
down one off of the land in Poor Valley
+ if so, ~~did he sell it?~~

Objected to because inadmissible as it
seeks to bolster by proving a negative.

On for Plffs.

Answer. I never knew of his trying to sell,
but I have known of different persons
trying to buy it - but he never would
sell

± Examined

Ques by Plffs' Counsel.

By what means or information did you become acquainted with your father's financial condition at the time referred to?

Answer. I got my information partly from my father - and I was there with him and knew his condition.

Ques by same.

State if you know, how much your father realized from the sale of his hay & oats to the R.R. Contractors or from any other source & when?

Objected to because immaterial, & inadmissible - Counsel for Def-

Answer He sold Two Hay stacks and Three Oat stacks, one a very small one. he told me he got ten dollars each for the Hay stacks - but I don't know what he got for the oats. This was about one year ago, I don't know of his getting in any money from any other source.

Ques by same

Have you any knowledge ^{of the fact} or have you heard your father say at anytime he had sold his Iron ore or given an option on same?

Answer. No 2 never home.

Does by same

Did your father at any time inform you in what part of his farm he intended to lay off or give you some land?

~~Answer~~

Objection is because immaterial & inadmissible

Counsel for Def.

Answer.

He has told me he would give me the part of the farm that includes the buildings if I would stay at home and be a good boy, and take care of him, and at other times he has told me he would give me nothing, what I mean by the home place is about one hundred acres including the buildings.

Does by same

Would not this 100 acres be embraced in the 150 acres referred to by you in your examination in chief?

Objection is because immaterial & inadmissible.

Counsel for Def.

Answer. About twenty acres and perhaps more maybe thirty acres.

Does by same

Have you heard your father say where he intended to lay off David's share and any other share if so where?

Objected to because immaterial & irrelevant

Answer for Def

Answer. I have heard him say that he ^{aimed} ~~intended~~ to lay David's off on the west end and that he ^{aimed} ~~intended~~ to lay Mary's off on the upper end, also that he ^{expected} ~~intended~~ to lay Martha's off on the upper end, and also that he might lay Martha's off next to David taking in the Briar field.

Ques by same

When did you hear him say he would lay off Mary's on upper end?

Answer. I have heard him say it since this Suite was instituted, I think I have heard him say it before this Suite was instituted, but am not certain.

Ques by same

When did you hear him speak of laying off Martha's on upper end and when did he speak of laying it off on lower end?

Answer. I heard him say it, two or three years ago, in regard to the upper and lower end both about the same time, since the institution of this Suite I have heard him say

he expected to lay Martha's Fort
off next to David's or next to
me if I should fall next to
David on the east.

And further this deponent soith note
Willie, H. C. Noel.

The further taking of depositions in
this case is hereby adjourned until
Tomorrow Nov 20th 1890.

This Nov 19th 1890. H. C. Joslyn J. P.

No further witnesses appearing the taking
of depositions for the defendant is ^{closed} ~~adjourned~~
Nov 20th 1890.

H. C. Joslyn J. P.

Virginia, Lee county, to wit:

The foregoing depositions of Nimrod Lee
A. H. Noel, David R. Lee & Willie H. C. Lee
were taken subscribed and sworn to
before me at the time and place and
for the purposes in the caption mentioned.
Given under my hand this 20th day of
November 1890.

H. C. Joslyn J. P.

Nimrod Nae
vs. 3 Depositions
John S. Covey & wife
Filed Nov 20 1892
J. P. Free

Depositions of
Nimrod Nae
A. M. Nae
David R. Nae
Willie H. C. Nae.

J. P. Free \$4.50

Jonesville, 7th July the 18th - 1890.
This day the undersigned has bargained
& sold to J. W. M. Grabel all of the white
oak & chestnut timber on a certain
boundary of land laying on the north
side of Poor Valley Ridge commencing at
the upper corner of the field near the
main road & running south to the first
Elbow in the Horlan Road thence with
the fence straight to the Top of Poor Valley
ridge thence east with the top of said
ridge to John Pennington's line thence
north down ~~the~~ ridge with Pennington's
line to main road running with the
road west to the commencing. Said J. W.
M. Grabel agrees & binds himself to
work up & get off all off said timber
by the 1st day of December 1890. Said Noel
agrees to give ^{said} Grabel the privilege of
putting two steam saw mills on the
Creek any where along the boundary of
timber that the mill men may think
best adapted to said work. Said
Grabel agrees & binds himself to pay to said
Noel the sum of three hundred dollars ^{as follows} Cash
in hand one hundred dollars, when work
is half done one hundred dollars & when
work is completed the remainder one hundred
dollars. Said mills is not to be put on the

inside of my meadow but will set in
the bottom on the north side of the Poor
Folly Creek.

Witness ^{his} X ^{Noe} seal
J. W. Mc Grubel ^{mark}

A copy from the original.

Leati, D.C. Sewell Deputy
Clerk for John R. Gibson Clerk of
Lee County Court, Va.

Witness Noe

~~Copy of~~ } Contract
2.2

J. W. Mc Grubel

By Consent of the
parties this Copy of
agreement is filed
in place of the
original, with the
depositions in the
Case. W. C. Jordan J.P.

This copy of agreement
is stipulated to being
introduced as testimony
in this case, becau^{se}
immaterial to any case
in the case -

Cornuel for Dep.

I Martha J. Carey, do solemnly swear
that I am informed and believe, that
> my father, Nimrod Nae, in buying off to
me Eighty acres of land, pursuant to the
decree of the Circuit Court of Lee County Va.
at the Decr. term 1890, in the Chancery Cause
of myself & husband against said Nimrod
Nae & others, and which 80 acres was sur-
veyed & reported in said Cause by L. M.
Carmichael S. L. C. Decr. 16th 1890, included
in said Survey of 80 acres, some twenty
two or twenty three acres of land in the
possession of, and claimed by, George
Tyler Coomer ^{& wife}, and which is ~~in controversy~~
in a suit in ejectment since then brought,
and now pending in said Court, by said
Nimrod Nae against said George Tyler
Coomer & wife. So help me God.

Martha J. Carey

Sworn to and subscribed before me,
February 16th 1890. J. A. Hazlett Clerk

Martha J. Carey
vs { Affidavit
Vincent Lee.

Filed Feb 18th 1891.

This Deed made this 26th day of May
1883. between Nimrod Roe of the first
part, and Martha J. Cory wife of
Charles D. Cory of the second part, all
of the county of Lee State of Virginia
Witnesseth that the said Nimrod
Roe is now the owner of a tract
of land lying in Lee County Virgin-
ia, on the North side of the Poor Val-
ley Ridge in the Poor Valley and
on the South side of Cumberland
Mountain containing by estimation
400 acres and is the same tract
on which the said Nimrod Roe
now lives, now in consideration of
the natural love and affection which
the said Nimrod Roe hath and doth
bear towards the said Martha J.
Cory, who is his daughter and for
and in consideration of an dollar
to him in hand paid by the
said Martha J. Cory the receipt of
which is hereby acknowledged, the
said Nimrod Roe doth by these
presents give, grant, bargain, sell
and convey unto the said Martha
J. Cory her heirs and assigns ei-
ghty acres of land, out of said
400 acre tract, and the same

to be laid off by the said Nimrod
Doe in any part of said 400 acre
tract, so that the same is laid off
by parallel lines running across
the Poor Valley from the South line
of said 400 acre tract on the North
side of the Poor Valley ridge to the
North line of said tract on the
South side of said Mountain so
that said 80 acres shall run equal
across said Poor Valley. To have and
to hold said 80 acres hereby con-
veyed with all its appurtenances
unto the said Martha J. Covey and
her heirs forever, and the said
Nimrod Doe hereby covenants
that he will warrant guarantee the
title to the 80 acres hereby conveyed,
But the said Nimrod Doe doth here-
by reserve to himself the use
and occupation of said land here-
by conveyed during his life and
the life of his wife or the survivor
of them, And the said Martha J.
Covey is to have no further part
of any real estate that the
said Nimrod Doe may be
owner of, and she doth hereby
accept this conveyance as her

full share of such real estate
witness the following signature
and seal

Minrod ^{his} Doe ^{mark} Seal
Virginia Lee County to wit:

I Henry J. Morgan a commissioner
in chancery of the circuit court of
Lee County the same being a court
of record do certify that Minrod
Doe whose name is signed to the
foregoing deed bearing date May
26th 1883, personally appeared before
me in the said county and acknowledged the said writing to
be his act and deed, given under
my hand this 26 day of May 1883.

Henry J. Morgan comm.

Virginia Lee County clerk's office
the 26th day of May 1883. The foregoing
deed bearing date May the 26th 1883
between Minrod Doe of the first
party and Martha J. Long of the
second party, both of Lee County
Va. was this day admitted to re-
cord upon the certificate of
Henry J. Morgan a commissioner
in chancery for the circuit court
of Lee County Virginia.
John R. Gibson clerk

M. J. Covy
From Copy of Deed
Vernon Nee

Recorded Deed
Book 20 P. 228

75

Copy of the Record
from J. R. Wilson etc.

KNOW ALL MEN BY THESE PRESENTS, That we

Charles D. Covey
Martha J. Covey and M. D. L. Healey
are held and firmly bound unto the Commonwealth of Virginia, in the sum of *Two*

Thousand dollars, to the payment whereof, well and truly to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents, hereby waiving the benefit of our homestead exemptions as to this obligation, and any claim, right, or privilege to discharge any liability arising under this bond, or by virtue of said office or trust, in any currency, funds, counter claims or offsets other than legal-tender currency of United States. Sealed with our seals, and dated *4th* day of *September*, one thousand eight hundred and *ninety*

The Condition of The Above Obligation is Such, That whereas the above bound

Charles D. Covey *Martha J. Covey*
on *their* bill in Chancery against *Nimrod Lee*
et al

addressed to the Judge of the circuit court of the county of Lee, has obtained from the said Judge an injunction to injoin and restrain *the defendants from selling or moving or interfering with said timber trees on said 400 acres of land & said defendants to prevent from cutting sawing or interfering with said timber trees on said 400 acre tract until said day & to sell & remove said also*

until the future order of the said court; and whereas it is provided, by the order of the said Judge awarding the said injunction, that the plaintiff shall not have the benefit thereof until

they, or some one for *them*, shall enter into a bond, with good security, in the clerk's of of the said court, payable to the Commonwealth of Virginia, in the penalty of *Two Thousand Dollars*

Dollars, and conditioned to pay all such costs as may be awarded against the said plaintiff, and all such damages as shall be incurred in case the said injunction be dissolved. Now, therefore, if the said *C. D. Covey & Martha J. Covey* shall pay all such costs as may be awarded against *them*, and all such damages as shall be incurred in case the said injunction be dissolved, then this obligation to be void, or else to remain in full force and virtue.

Executed in the presence of

Charles D. Covey (SEAL.)
Martha J. Covey (SEAL.)
M. D. L. Healey (SEAL.)

In the Clerk's Office of the Circuit Court of the County of Lee

This day personally appeared before me *J. A. G. Hyatt*, clerk of the circuit court of the county of Lee *C. D. Covey Martha J. Covey & M. D. L. Healey* and made oath that *they* estate, after the payment of all *their* just debts, and those for which he *they* bound as security for others and expect to pay, worth the sum of *Four Thousand* dollars, over and above exemptions allowed by law.

Given under my hand this *4th* day of *Sept* 18*90*

Teste: *J. A. G. Hyatt* Clerk.

C. D. Leoney

vs ~~3~~ Bond

Armed. 1890

Filed Sept. 4th 1890.

J. A. Syatt

Stake
C^o N 81 1/2 E 51
Colman
D
Stake

M. J. Conley's & A^o
S 10 E 24 1/2
4 1/2 S 2 W 10 N

B A

To the Hon Court of Lee County Va
At the request of Vinrod Nor I have surveyed
and laid off the following described tract or parcel
of land for Martha J. Conley wife of Charles Conley it being
the same land purchased by the said M. J. Conley from
the said Vinrod Nor as her share of land in the said
estate of said Nor - I have laid off said land in
conformity with description as given in the above
recited deed and so as not to include any lands from
which timber has been cut or removed save for use upon the
farm of said Nor and although some ten poplar trees
had been sold to H. Russell they have either been cut or purchased
by said Nor - Said land is bounded as follows -
Beginning at a stake & two chestnut-trees on the
top of Poor Valley ridge thence with the
top of same S 73 1/2 W 13 1/4 poles V 8 1/4 W 10 poles S 65 1/2 W
16 poles S 10 W 13 1/4 poles to two chestnut-trees & a stake
thence leaving the top of said Poor Valley ridge &
running across the Poor Valley N 10 W 2 5 1/4 poles
to a stake on Fishers Line & with the same
N 81 1/2 E 51 1/2 poles to a stake thence leaving
said line S 10 E 24 1/2 poles to the begin-
ning containing 80 acres
This 16th day of Dec 1890
D. M. Carnical S. L. C

All part of the land above described is included in the lands claimed by S. T. Coomer & wife, but
can not state the amount thus included D. M. Carnical S. L. C

The within report is excepted to, because there is embraced in the boundary of 80 acres, laid off to the female plaintiff, twenty two or twenty three acres of land, on the North end of said boundary, in the possession of and claimed by George Tyler Coomer + Mariah Coomer his wife, and which 22 or 23 acres is not embraced in Nimrod Lee's deed for his 400 acre tract of land out of which the said 80 acres should have been taken, and because the deft Nimrod Lee has not laid off to the female Plff the 80 acres of land out of the 400 acre tract as required by the decree of the Court at the Decr term 1890, Feb 18th 1891.

James W. Orr, for
Plaintiffs.

agreed in the matter

Metes & bounds
of the
M. J. Coomer
80 A. Land.

Filed Decr. 20th 1890.
J. A. B. V. p. 20

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

WE COMMAND YOU TO SUMMON

J. W. M. Grabeel
John M. Whitehead & Mary McElroy

a Court
To appear before the Judge of our Circuit Court of Lee County, at the courthouse on the *17th*
day of *November 1890* term next to testify and the truth to speak in behalf of
Chas. D. Leoney & wife in certian matters of controversy
pending in our said Court between *said*

Chas. D. Leoney & wife Plaintiff, and *Minrod & Co*
& others

they Defendant. And this *they* shall in no wise
omit under the penalty of Twenty Dollars. And have then there this writ. Witness, J. A. G. Hyatt,
Clerk of our said Court at the Courthouse.

This *7th* day of *Novr.* 1890, in the 11th year of the Commonwealth.

J. A. G. Hyatt Clerk.

Chas. D. Covey
vs 3 Spd.

Ninrod Noctue

Sept. 17. Nov. 1890

Executed by Eunothe
within witness this the
18th of Nov-1890

Jm. P Sprinkle Dep't
for A. B. Muncy & Co

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

We Command You to Summon

J. Russell & J. H. M. Graham

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the ^{third} ~~first~~ Monday in ~~September~~ next, being rule day to answer a bill in Chancery exhibited in our said Court

against *Thence* by *Charles S. Covey & Martha J. Covey his wife*

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.
This *4th* day of *Sept* 189*0*, in the 11*th* year of the Commonwealth.

A Copy Teste

J. A. G. Hyatt Clerk.

To enjoin and inhibit the Defendant Minrod
 from selling or interfering with the timber
 trees in the lots mentioned in said 400 acre
 tract of land and said defendants Russell
 & Gray best from cutting, sawing, removing
 or interfering with said timber trees ~~on~~
 on said tract, until said ~~has~~ lay off
 to female plaintiff's acres and also till the
 future order of the Court. Bond having been
 given as required in the order of injunction

L. D. Covey to file
 as my share in they

Minrod vs. the State

202 Sept. Rules 1890.

Specified Sept 4th 1890

by delivering an affidavit
 of the contents of the in they
 have in fact and order

to the Minrod vs. the State

Sept Russell & Gray vs. the State

of Sept 1890

Open P. Minrod vs. the State

Sept for A. B. Minrod vs. the State

Sept 1890